

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICHAEL RAY EVANS,	)	CASE NO. C05-1770-MJP
	)	
Petitioner,	)	
	)	
v.	)	ORDER TRANSFERRING § 2254
	)	PETITION
SANDRA CARTER,	)	
	)	
Respondent.	)	
_____	)	

The Court, having reviewed petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, respondent's motion to dismiss, petitioner's response to Order to Show Cause, respondent's reply, the Report and Recommendation of the Honorable Mary Alice Theiler, United States Magistrate Judge, any objections thereto, and the balance of the record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation;
- (2) The case is TRANSFERRED to the Ninth Circuit Court of Appeals, in the interests of justice, pursuant to 28 U.S.C § 1631 and Circuit Rule 22-3(a).  
Petitioner is advised that this transfer does not of itself constitute compliance with

01 § 2244(b)(3) and Circuit Rule 22-3; he must still file a motion for leave to proceed  
02 in the Ninth Circuit and make the showing required by § 2244(b)(2); and

03 (3) The Clerk is directed to close this case and transfer all original documents to the  
04 Ninth Circuit Court of Appeals. The Clerk is further directed to send a copy of  
05 this Order to petitioner, to counsel for respondent, and to Judge Theiler.

06 DATED this 1st day of August, 2006.

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09 Marsha J. Pechman  
10 United States District Judge  
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